

SENATE BILL NO. 521

INTRODUCED BY S. DOHERTY, F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE EMERGENCY POWERS OF THE GOVERNOR; REVISING THE DEFINITION OF "ENERGY EMERGENCY"; CLARIFYING THE ENERGY EMERGENCY POWERS OF THE GOVERNOR; EXTENDING THE DURATION OF AN ENERGY EMERGENCY; CLARIFYING THAT PROCEEDINGS UNDERTAKEN DURING AN ENERGY EMERGENCY MAY BE COMPLETED; AMENDING SECTIONS 90-4-302 ~~AND~~, 90-4-310, AND 90-4-313, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 90-4-302, MCA, is amended to read:

"90-4-302. Definitions. As used in this part, the following definitions apply:

(1) "Bulk pipeline terminal" means a facility that is primarily used for storage for the marketing of petroleum products and that has a total bulk storage capacity of 50,000 gallons or more.

(2) "Distributor" means any person, private corporation, partnership, producer, individual proprietorship, public utility, joint operating agency, or cooperative that engages in or is authorized to engage in the activity of generating, producing, transmitting, or distributing energy in this state.

(3) "Energy" means petroleum or other liquid fuels, natural or synthetic fuel gas, or electricity.

(4) "Energy emergency" means an existing or imminent domestic, regional, or national shortage of energy or a price of energy that will result in curtailment of essential services or production of essential goods or the disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the energy form involved and the allocation of available energy supplies among users OR TO INCREASE THE AVAILABLE SUPPLY OF ENERGY.

(5) "Energy facility" means a facility that produces, extracts, converts, transports, or stores energy.

(6) "Energy supply alert" means a condition of energy supply on a national, regional, state, or local basis that foreseeably will affect significantly the availability of essential energy supplies OR THE PRICE OF ENERGY within the ensuing 90-day period unless action is taken under 90-4-309 to reduce energy usage

1 by state agencies and political subdivisions OR ACTION IS TAKEN TO INCREASE THE SUPPLY OF ENERGY.

2 (7) "Person" means an individual, partnership, joint venture, private or public corporation,
3 cooperative, association, firm, public utility, political subdivision, municipal corporation, government
4 agency, joint operating agency, or any other entity, public or private, however organized.

5 (8) "Petroleum pipeline company" means a person who owns or operates in Montana any pipeline
6 used for the transportation of petroleum products or their derivatives. This definition does not include
7 pipelines used to transport crude petroleum from producing wells to refineries.

8 (9) "Petroleum products" means propane, butane, propane/butane mix, motor gasoline, kerosene
9 and other middle distillates, aviation gasoline, jet fuel, number 4 fuel oil, residual fuel oil, and alcohol fuels,
10 whether in natural or synthetic form.

11 (10) "Prime petroleum supplier" means the person who makes the first sale of a petroleum product
12 into the state distribution system. Any person who is considered to be a Montana prime supplier by the
13 U.S. department of energy is included in this definition.

14 (11) "Refiner" means a person that owns, operates, or controls the operations of one or more
15 refineries located in Montana.

16 (12) "Refinery" means an industrial plant, regardless of capacity, that processes fossil or renewable
17 feedstock or manufactures refined petroleum products, except when the plant exclusively produces
18 petrochemicals."

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20 **Section 2.** Section 90-4-310, MCA, is amended to read:

21 **"90-4-310. Energy emergency powers of governor.** In addition to existing powers and duties, the
22 governor has the following duties and special energy emergency powers, subject to the definitions and
23 limitations in this part:

24 (1) The governor may, upon finding that a situation exists that threatens to seriously disrupt or
25 diminish energy supplies to the extent that life, health, or property may be jeopardized, declare a condition
26 or state of energy emergency, at which time all of the general and specific emergency powers enumerated
27 in this section become effective.

28 (2) The condition of energy emergency terminates after ~~45~~ 90 consecutive days unless extended
29 by a declaration of the legislature by joint resolution of a continuing condition of energy emergency of a
30 duration to be established by the legislature.

(3) The conditions of an energy emergency alternatively cease to exist upon a declaration to that effect by either of the following:

(a) the governor; or

(b) the legislature, by joint resolution if in regular or special session.

(4) In a declared state of energy emergency, the governor may:

(a) implement programs, controls, standards, priorities, and quotas for the production, allocation, conservation, and consumption of energy, including plans for the curtailment of energy. However, in so doing, the governor ~~shall~~ may impose controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected by the energy emergency.

(b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and

(c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states, localities, and other persons.

(5) ~~This~~ EXCEPT AS PROVIDED IN 90-4-313, THIS part does not mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this part has any continuing legal effect after the cessation of a declared state of energy emergency.

(6) Because of the emergency nature of this part, all actions authorized or required under this part or taken pursuant to any order issued by the governor are exempted from all requirements and provisions of the Montana Environmental Policy Act, including but not limited to the requirement for environmental impact statements.

(7) Except as provided in this section, this part does not exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor; or unless impossibility of compliance is a direct result of an order of the governor."

SECTION 3. SECTION 90-4-313, MCA, IS AMENDED TO READ:

"90-4-313. Compliance. Notwithstanding any provision of law or contract to the contrary, all persons who are specifically ordered by the governor to comply with an order issued or action taken

1 pursuant to this part shall comply. A proceeding or project that is commenced under an energy emergency
2 may proceed to completion even if the completion occurs after the termination of the emergency."

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4 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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